IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 137 of 1998
Date of decision 16 .7 .2007

Punjab Power Packs Ltd., SAS Nagar ..
appellant

Versus

CIT Patiala .. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr. Sanjay Bansal,Sr. Advocate with
Ms.Suyman Dhiman, Advocate
Mr.SK Garg Narwana, Advocate for the revenue.

M.M.Kumar, J.

The revenue has approached this Court by claiming that the following question of law would emerge from the order dated 19.9.1996 passed in ITA No 1258/Chandi/1990 in respect of assessment year 1988-89 and the same reads as under:

" 1. Whether on the facts and in the circumstances of the case, the Tribunal was right in rejecting the claim of the applicant-assessee u/s 32 AB of the Income tax Act by holding that the filing of audit report is a precondition for grant of claim u/s 32 AB;

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in not considering the alternative plea of the applicant- assessee for allowing the claim u/s 32A of the Income tax Act for the period from 1.7.1986 to 30.6.1987?"

At the outset Mr. Sanjay Bansal, learned counsel for the assessee, has submitted that the controversy raised in this case stands settled

by a Full Bench judgement of this Court in the case of CIT v. Punjab Financial Corporation (2002) 254 ITR 6 wherein it has been held that the provisions of Section 32 AB(5) of the Act are not mandatory and the Assessing Officer has the discretion to entertain the audit report even though the same was not filed with the return for grant of benefit of deduction to the assessee in terms of Section 32AB(1) of the Act. He has also submitted that the view taken by the Full Bench of this Court in the case of Punjab Financial Corporation (supra) has been followed and applied by a Division Bench of Madras High Court in the case of Commissioner of Income tax v. Print Systems and Products (2006) 284 ITR 260. The learned counsel for the revenue could not controvert the aforesaid submission.

In view of the above, the question referred for the opinion of this Court is answered in favour of the assessee and against the revenue. The reference is disposed of accordingly.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

16.7.2007
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